UNITED STATES OF AMERICA,

              Plaintiff,

     v.

TRACY HOLLOWELL,

              Defendant.

Case No. 18-cr-180-LA

UNITED STATES OF AMERICA,

              Plaintiff,

     v.

TRACY HOLLOWELL,

              Defendant.

Case No. 17-cr-222-PP

ORDER CONSTRUING GOVERNMENT'S MOTIONS AS A MOTION TO REASSIGN CASE NO. 18-CR-180-LA, AND GRANTING MOTIONS

On December 19, 2017, the grand jury indicted defendants Devin Jefferson and Tracy Hollowell in United States v. Hollowell, *et al.*, 17-cr-222-PP. The grand jury returned a superseding indictment on March 20, 2018, charging these two defendants and Julius Finch and Darryl Harvey. Dkt. No. 13. The superseding indictment charges these defendants with committing robberies in violation of the Hobbs Act, 18 U.S.C. §1951. Id.

On September 26, 2018, the government filed a motion, explaining that on July 18, 2018, a grand jury in the Southern District of Indiana had indicted defendant Hollowell; the judge in Indiana had ordered the case to be transferred to this district under Fed. R. Crim. P. 20 for entry of a guilty plea. Dkt. No. 36. Upon arrival here, the case was docketed as case number 18-cr-

180, and assigned to Judge Lynn Adelman. Id. at 2; United States v. Hollowell, 18-cr-180-LA. The indictment in that case charges only Hollowell, and alleged that he possessed a firearm after having been convicted of crimes punishable by a prison term of more than a year. 18-cr-180-LA, Dkt. No. 1 at 3-4.

The government's motion asserts that the offenses charged in the two cases are "related," and that the defendant's counsel (the same in both cases) has no objection to the request for consolidation. Case No. 17-cr-222-PP at dkt. no. 36; Case No. 18-cr-180-LA at dkt. no. 2.

The court construes this motion a motion to reassign Case No. 18-cr-180 from Judge Adelman to Judge Pepper. Under Criminal Local Rule 13, a criminal case may be reassigned to another judge if it is related to a lower-numbered criminal case and (a) all the defendants are the same, or the case is based on the same set of facts or offenses; (b) both cases are pending in the Eastern District; (c) the handling of both cases by the same judge is likely to result in an overall saving of judicial resources; and (d) neither case has progressed to the point where reassigning the case would substantially delay the other. Crim. L.R. 13(b) mandates that the judge with the lowest numbered of the two cases shall decide the motion to reassign.
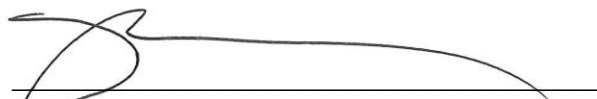
The government's motion appears to meet all these requirements. Hollowell is a defendant in both cases. Both cases now are pending in the Eastern District. Having two cases involving the same defendant be heard by the same judge is likely to promote efficiency. And the case transferred here from Indiana on a Rule 20 order, which means that the defendant will be pleading guilty in that case; it will not slow the proceedings in the 2017 case.

The court understands that the government's motion asks the court to "consolidate" the cases. But in the criminal context, "consolidation" usually refers to consolidation of cases for *trial* under Fed. R. Crim. P. 13. (See Crim. L.R. 13(d) ("An order under this rule reassigning cases as related does not constitute a joinder order under Fed. R. Crim. P. 13;" United States v. Russell, 2 F.3d 200, 204 (7th Cir. 1993) (noting that Rule 13 provides for consolidation of criminal cases for trial)). It seems more likely to the court that the parties are asking the court to reassign the later-filed case from Judge Adelman to Judge Pepper, not to combine the two cases for trial.

The court **CONSTRUES** the government's motions as motions to reassign Case No. 18-cr-180-LA to Judge Pepper. The court **GRANTS** those motions (Case No. 17-cr-222-PP at dkt. no. 36; Case No. 18-cr-180-LA at dkt. no. 2), and **ORDERS** that the clerk's office shall **REASSIGN** United States v. Hollowell, 18-cr-180-LA from Judge Adelman to Judge Pepper.

Dated in Milwaukee, Wisconsin this 1st day of October, 2018.

BY THE COURT:

HON. PAMELA PEPPER
United States District Judge